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C O N F I D E N T I A L SECTION 01 OF 02 ISLAMABAD 001702

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SUBJECT: WILL THE JUDICIARY ISSUE BRING DOWN PAKISTAN'S
COALITION?

REF: A. ISLAMABAD 1679

[1](#)B. ISLAMABAD 1641

Classified By: Anne W. Patterson, Reasons 1.4 (b), (d)

[1](#)1. (C) Summary: Though seemingly close to a deal on restoration of the deposed judiciary, the Pakistan People's Party and Pakistan Muslim League-Nawaz continue to negotiate (now in Dubai). The sticking point continues to be former Chief Justice Chaudhry, who likely will return to the bench. But the parties are deadlocked on how many of his old prerogatives he will have and for how long. Asif Zardari wants to curtail Chaudhry's ability to oust Musharraf. Believing he has popular support, Nawaz Sharif is increasingly and more openly threatening to bolt from the young coalition government. Meanwhile, Zardari just successfully made a deal with the Muttahida Qaumi Movement (MQM) that will make possible passage of the constitutional package of reforms he wants to accompany restoration of the judges.

[1](#)2. (C) Nawaz reportedly is en route to Dubai to settle the issue. Most analysts doubt he will walk out of government after only a month. By-elections that will bring his brother Shahbaz to power as Chief Minister of Punjab are not slated until June 18, and Nawaz has to repair the damage of eight years of exile on his party organization. He is not yet ready for elections but could be a formidable force in opposition. If he does walk out, however, Zardari should still have a slim majority (176 of 342 seats) in the National Assembly. To remain in power, he would be more dependent on the smaller parties, including MQM and the Jamiat Ulema-e-Islam (JUI-F). Musharraf's party is working behind the scenes to remain a player, but it is doubtful Zardari would include the Pakistan Muslim League-Q in his coalition, especially if the Chaudhrys remain in charge. End summary.

Close, But Still So Far

[1](#)3. (C) Talks between Pakistan People's Party (PPP) Co-Chairman Asif Zardari and representatives for Nawaz Sharif's Pakistan Muslim League-N (PML-N) regarding the full restoration of the judges deposed last November 3 continued in Dubai, where Zardari remained April 29 visiting a reportedly sick daughter. Outlines of a deal have begun to leak out (reftels).

[1](#)4. (C) The two parties appear to have agreed to the extent

that the National Assembly would pass a resolution legally reinstating all of the deposed judges, including former Supreme Court Chief Justice Iftikhar Chaudhry. The executive order actually returning them to the bench would be delayed until a constitutional amendments package guaranteeing the "independence of the judiciary" could also be taken up.

¶5. (C) The amendments package would reportedly expand Supreme Court and High Court benches to include both current and deposed judges. The tenure of the Chief Justice would be limited, ranging from three to five years, and his powers to form panels might be checked. A rump bench would also decide judicial promotions. There has even been talk of abolishing or curtailing judges' suo moto powers. Behind the negotiations are Zardari's efforts to restrict Chaudhry's power to oust Musharraf or to undo the National Reconciliation Ordinance (NRO) that gave Zardari immunity from prosecution on corruption charges.

An Inch or A Mile

¶6. (C) The problem, according to Chaudhry attorney Athar Minallah speaking to PolOff late April 28, is that not even an outline of an amendments package has been put in writing by its PPP proponents. Key leaders of the lawyers' movement have only recently re-engaged with either party after an hiatus of nearly 30 days, Minallah claimed. They discovered that none of the PPP or PML-N ministers who make up the two-party "committee" charged with negotiations have proposed any amendments in draft.

¶7. (C) The restoration resolution, however, written by former

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Attorney General and senior barrister Fakruddin Ebrahim, was "basically done," added Minallah, but would be "toothless" without an accompanying executive order and could be utterly obscured by an as-yet undefined judicial reforms package. The lawyers' movement would balk, Minallah predicted, at the reform package. He was not certain the PPP would ultimately give in to immediate restoration because of the PML-N's political pressure. He warned that many in the lawyers' movement blamed the USG for the PPP's hard-line over Chaudhry's restoration. For now, though, Minallah said, the lawyers' movement still did not have a game plan on how to respond if the judges were not restored on/about April 30.

Going to Dubai

¶8. (C) Reports April 29 surfaced that Shahbaz Sharif would be sent to Dubai to meet with Zardari; unconfirmed press reports say that Nawaz may be headed to Dubai as well. Without a commitment on a firm date for passage of the restoration resolution, the PML-N is threatening to pull its ministers from the federal cabinet.

¶9. (C) Separately, NSA Tariq Aziz told Ambassador April 29 that Shahbaz had tried to convince Interior Minister Rehman Malik to talk Zardari into ousting Musharraf. For his part, Malik continues to keep Aziz up to date on the developments surrounding restoration of the judiciary. Musharraf's party continues to work behind the scenes to prevent its members from defecting to Nawaz or the PPP.

PPP/MQM Deal

¶10. (C) Meanwhile, Zardari finally succeeded in negotiating a power-sharing deal with the MQM in the Sindh provincial government. MQM will get eight ministers and five advisors. There is no deal yet at the national level, but the cooperation opens the way for MQM to support the PPP in both the National Assembly and the Senate. The agreement thus increases Zardari's leverage over Nawaz and opens the

possibility of enacting the constitutional judicial reform package that allegedly will accompany restoration of the judiciary.

Collapse?

¶11. (C) Comment: Most analysts doubt Nawaz will walk out of government after only a month. By-elections that will bring his brother Shahbaz to power as Chief Minister of Punjab are not slated until June 18, and Nawaz has yet to repair the damage of eight years of exile on his party organization. His ministers are enjoying their first taste of power in a very long time. He is not yet ready for elections but could be a formidable force in opposition. If he does walk out, however, Zardari should still have a slim majority (176 of 342 seats) in the National Assembly. To remain in power, he would be more dependent on satisfying the demands of the smaller parties, including MQM (25 seats) and the Jamiat Ulema-e-Islam (7 seats). Musharraf's party will continue to try to be a player, but we doubt Zardari can afford to include them in the coalition, especially in the controversial Chaudhrys remain in charge of the party. End comment.

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